

STATE OF MICHIGAN
COURT OF APPEALS

CHESTER WROBEL,

Plaintiff-Appellee,

v

BERNICE WROBEL,

Defendant-Appellant.

UNPUBLISHED

January 25, 2000

No. 210919

Macomb Circuit Court

LC No. 97-001297 DO

Before: White, P.J., and Hood and Jansen, JJ.

PER CURIAM.

Defendant appeals as of right from a judgment of divorce entered March 24 1998. We affirm.

The parties in this case were originally married August 1986 and this was the second marriage for both parties. They were subsequently divorced in January 1993. In March 1994, plaintiff executed a quitclaim deed conveying property in the City of Warren, which had been and later was the marital home to himself and defendant “as joint tenants with full rights of survivorship and not as a tenants in common.” In June 1994, the parties remarried, but were again divorced in March of 1998.¹ The contested issue below, as on appeal, was whether the trial court could sever defendant’s survivorship right to the property² or whether the language on the deed created an indestructible survivorship interest. The matter was referred to a referee who concluded that MCL 552.102; MSA 25.132 allowed the trial court to sever the survivorship interest upon the divorce. The trial court adopted the referee’s recommendation.

Defendant argues that the parties owned the home as joint tenants with full rights of survivorship and the trial court could not sever her survivorship interest and award the home exclusively to plaintiff. We disagree.

Generally, all jointly held property is subject to being partitioned. MCL 600.3304; MSA 27A.3304. Defendant relies upon a recognized distinction between a joint tenancy and a joint tenancy with full rights of survivorship. In fact, these two distinct joint tenancies have long been recognized in Michigan. See *E. C. Schulz v Brohl*, 116 Mich 603; 74 NW 1012 (1898); *Mannausa v Mannausa*,

374 Mich 6; 130 NW2d 900 (1964); and *Albro v Allen* 434 Mich 271, 276; 454 NW2d 85 (1990). Our Supreme Court, in *Albro, Id.* at 274-276, discussed the important difference:

At the crux of this case is the distinction between the “joint tenancy with full rights of survivorship” and the ordinary joint tenancy. The “joint tenancy with full rights of survivorship” is comprised of a joint life estate with dual contingent remainders. See 1 Cameron, Michigan Real Property Law, § 9.11, p 274. While the survivorship feature of the ordinary joint tenancy may be defeated by the act of cotenant, the dual contingent remainders of the “joint tenancy with full rights of survivorship” are indestructible. A cotenant’s contingent remainder cannot be destroyed by an act of the other cotenant. [*Albro, supra*, 434 Mich 276 (citing omitted)]

Neither *Albro*, nor any of the cases relied on by defendant, or cited by the dissent, however, dealt with divorcing couples.

The goal of a court when apportioning a marital estate is to reach an equitable division in light of all the circumstances. *Ackerman v Akerman*, 163 Mich App 796, 807; 414 NW2d 919 (1987). In doing so, the court may even invade the separate estate of one of the parties if certain conditions are met. *Reeves v Reeves*, 226 Mich App 490, 494; 575 NW2d 1 (1999). Against that general background, we find no error in this case.

Defendant argues that the general statutory rule concerning partition does not apply in this case because it involved a joint tenancy with right of survivorship. As indicated, however, neither *Albro* nor any of the other cases cited by the defendant involved equitable powers exercised by a court in granting a divorce.

MCL 552.102; MSA 25.132, upon which the trial court relied, states very clearly that upon divorce, both joint tenants and tenants by the entireties become tenants in common, “ unless the ownership thereof is otherwise determined by the decree of divorce.” The statute makes no distinction between “categories” of joint tenants, and we see no reason to read such a distinction into the statute, or to read the statute as restricting the court’s authority to make an equitable division in light of all the circumstances.

In *Yeagly v Yeagly*, 314 Mich 451; 22 NW2d 769 (1946) our Supreme Court confirmed the fact that a divorce destroys the right of survivorship to property which was at one time jointly held, stating simply, “After the 1943 amendment of the decree wherein the property rights of the parties were fixed, plaintiff was no longer a joint tenant with her former husband with a right of survivorship.” Similar reasoning leads us to a similar result in this case.

Next, defendant argues that the trial court erred in awarding plaintiff the entire balance in a joint bank account. Defendant has failed to preserve the issue for appeal because she did not contest the referee’s award at the trial court level. Rather, defendant only objected to the referee’s recommendation regarding the award of the marital house. Further, defendant has failed to cite any authority for her position on appeal. Insufficiently briefed issues are deemed abandoned and we need

not reach it. *Mudge v Macomb Co*, 458 Mich 87, 104-105; 580 NW2d 845 (1998). In any event, the trial court's award in this regard is not inequitable because the undisputed evidence was that the money in that account were funds deposited exclusively by plaintiff.

We affirm.

/s/ Harold Hood

/s/ Helene N. White

¹ Plaintiff died on June 3, 1998.

² The 1997 appraisal value of the property was \$97,000.